

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

)	
JOHN G. PEDICINI,)	
)	
Plaintiff)	Civil Action No.
)	04-12395-JLT
)	
-v-)	MOTION FOR
)	PROTECTIVE ORDER
)	
UNITED STATES OF AMERICA, et al.)	
)	
Defendants)	
)	
)	

Upon the annexed affirmation of Robert S. Catapano-Friedman and the annexed Memorandum In Support of this Motion, the undersigned moves this Court for an order to produce the documents relevant to this case now in Plaintiff's possession and for an order protecting those documents, limiting their use to this current civil action.

s/ Robert S. Catapano-Friedman
Robert S. Catapano-Friedman
Attorney For Plaintiff
The Catapano-Friedman Law Firm
50 Franklin Street, 4th Floor
Boston, MA 02110
(617) 542-7711
BBO# 078980

Notice of Motion

To: Damian Wilmot
Attorney for Defendants
Office of the U.S. Attorney
John Joseph Moakley U.S. Courthouse
9th Floor
1 Courthouse Way
Boston, MA 02210

Please take notice, that undersigned will move this Court at the John Joseph Moakley U.S. Courthouse at 1 Courthouse Way, Boston, Massachusetts 02210 on the 1st day of March, 2004 at 11am o'clock that day, or as soon as counsel may be heard.

S/ Robert S. Catapano-Friedman
Robert S. Catapano-Friedman
Attorney for Plaintiff
The Catapano-Friedman Law Firm
50 Franklin St, 4th Floor
Boston, MA 02110
(617) 542-7711
BBO# 078980

CERTIFICATION OF SERVICE

I Hereby certify that the above was served through the Court's electronic filing system to the attorney on record for the Defendants on or before March 1, 2005:

To: Damian Wilmot
Attorney for Defendants
Office of the U.S. Attorney
John Joseph Moakley U.S. Courthouse
9th Floor
1 Courthouse Way
Boston, MA 02210

Dated: February 28, 2005

S/ Robert S. Catapano-Friedman
Robert S. Catapano-Friedman
Counsel for Plaintiff
The Catapano-Friedman Law Firm
50 Franklin Street, 4th Floor
Boston, MA 02110
BBO #078980

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN G. PEDICINI,)	
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Plaintiff)	Civil Action No.
)	04-12395-JLT
)	
-v-)	
)	Robert S. Catapano-Friedman
)	Affirmation In
)	Support of Motion For
)	Protective Order
UNITED STATES OF AMERICA, et al.)	
)	
Defendants)	
)	
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Robert S. Catapano-Friedman, an attorney duly admitted to practice before the United States District Court of Massachusetts and Attorney for the Plaintiff under penalty of perjury hereby swears the following:

I. Introduction

Counsel for Plaintiff, John G. Pedicini ("Plaintiff"), respectfully requested via motion that this Court place a Protective Order on the discovery materials Plaintiff wishes to disclose to Counsel for Defendants, based on the Protections of the Privacy Act, of 1974, 5 U.S.C. 552a.

II. Material Facts

Counsel bases this Motion on the following facts:

1. Plaintiff is an employee for the U.S. Department of Agriculture Food and Nutrition Services at the Northeast Regional Office in Boston ("FNS-NERO").
2. Plaintiff is in possession of many documents which he acquired through his employment at FNS-NERO, through his participation as an EEO Representative for his peers at FNS-NERO, and through FNS-NERO employee voluntary submissions to him.
3. The documents which Counsel for Plaintiff seeks to disclose to Counsel for Defendants and for which Counsel for Plaintiff makes this request for a Protective Order are as follow and number P-1 through P-1960:

A. Plaintiff's EEOC deposition of Frances Zorn (USDA-FNS employee) on February 11, 2003 in his capacity as an EEO Representative for Luis Perez (USDA-FNS employee) and acquired in that capacity,

B. The U.S. Department of Agriculture Report of Investigation for John Pedicini (with exhibits, including, without limit, statements by USDA-FNS employees including Bellezza, Luis Perez, Douglas MacAllister, Joseph Stanco, Martin Hines, and Cleveland

C. Hall-Employee Relations Specialist) regarding

Plaintiff's formal USDA Office of Civil Rights
Complaint dated March 24, 2003.

D. EEO and USDA Office of Civil Rights Complaints and
Complaint amendment by Plaintiff and others,

E. Relevant Emails between Plaintiff and others at
USDA-FNS and between other persons at USDA-FNS (some of
which are contained in the Investigation Report in
"B"),

F. Letters and Memos from EEO and USDA-FNS personnel to
Plaintiff and other persons,

G. Letters of Instruction from Defendants to Plaintiff,

H. Documents pertaining to the Settlement Agreement
between Plaintiff and Defendants (including the
Settlement Agreement and drafts of the Settlement
Agreement),

I. Plaintiff's deposition of Robert Canavan on February
11, 2003 in his EEO Representative Capacity for Luis
Perez and acquired in Plaintiff's EEO representative
capacity,

J. Plaintiff's deposition of Douglas MacAllister on
July 16, 2001 taken and acquired in Plaintiff's EEO
Representative Capacity for Antoinette Belleza,

K. Plaintiff's deposition of Luis Perez on February 11,
2003 taken and acquired in Plaintiff's EEO

Representative Capacity for Luis Perez,
L. Plaintiff's deposition of Frances Zorn on July 16,
2001 taken and acquired in Plaintiff's EEO
Representative Capacity for Antoinette Bellezza,
M. Plaintiff's Deposition of Arthur LeBlanc (USDA-FNA
employee) on July 14th, 2001 in Plaintiff's EEO
Representative Capacity for Antoinette Bellezza
N. The U.S. Department of Agriculture Final
Determination of an Allegation of Non-Compliance by
Plaintiff dated May 19, 2004,
O. Plaintiff's non-compliance Complaint to the USDA
alleging Non-compliance with the Settlement Agreement
signed by Plaintiff and Defendants,
P. Letter to USDA employee pertaining to Plaintiff's
allegations of Non-Compliance with the Settlement
Agreement,
Q. Plaintiff's Memorandum In Support of Finding For
Non-Compliance,
R. Part I right to representation at meetings (copy
made by Plaintiff of the regulation),
S. Notice from Plaintiff to Ms. Wilmot, USDA-FNS
employee, regarding prohibited personnel practices,
T. Spreadsheets of USDA employees including Plaintiff
(such as listings of Funds officers in USDA-FNS and

listings of other employees),

U. Plaintiff's designation of Martin Hines as EEO representative,

V. Complaint filed by Luis Perez against the USDA,

W. Documents pertaining to Plaintiff's representation of Luis Perez,

X. Letter of Instruction from Defendants to Luis Perez,

Y. Funds Officer Listing dated 1/26/1999,

Z. Performance appraisals of Plaintiff at USDA-FNS,

AA. Plaintiff's emails to John Ghiorzi, MacAllister, Salazar, Stanco, and other relevant individuals at USDA-FNS,

BB. Plaintiff's Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity,

CC. Notes made by Plaintiff regarding the alleged retaliation,

DD. Funds Officer Listing Table dated by Excel Computer Program on a day of printout as 2/17/05 (originally dated November 9, 2004) from which, on information and belief, Plaintiff's name was deleted from under Marty Hines' name but Plaintiff's phone number remains under Marty Hines' phone number,

EE. Email between Marty Hines and Jonathan Lash (FNS employees) regarding the Funds Officer List currently

dated 2/17/05 (originally dated November 9, 2004),
FF. USDA Complaint File/Report of Investigation for
Luis Perez in which Plaintiff acted as Mr. Perez' EEO
representative,

GG. USDA Report of Investigation for Antoinette
Bellezza for whom Plaintiff acted as a witness and EEO
Representative,

HH. documents/funds at USDA-FNS certified by Plaintiff
during his employment at FNS-NERO,

II. legal cases, rules, and rights researched by
Plaintiff relevant to this action and his EEO activity
prior to obtaining counsel,

JJ. Plaintiff's notes

KK. rough drafts by Plaintiff for affidavits

LL. Papers relating to Martin Hines' EEO and USDA
Office of Civil Rights Complaint of Retaliation Against
him for supporting Plaintiff's allegations including,
without limit, papers relating to Plaintiff's
allegation that Defendants are trying to block his
career advancement

MM. Funds Officer Listing Dated 12/22/04

NN. Memos from Frances Zorn designating Stanco/Malone
to certify funds shortly after Plaintiff's Complaints
became formal in 2003 and 2004

00. Letters relating to Plaintiff's participation in Ms. Bellezza's and Mr. Perez' EEO and USDA Office of Civil Rights cases.

4. Counsel for Defendants is not an employee of the USDA-FNS and is also defending the United States in addition to the USDA.

5. Plaintiff received letters with the Reports of Investigation listed above stating the Reports were covered by the Privacy Act and could not be shown to anyone outside the relevant agencies (USDA and EEO).

6. Antionette Bellezza's Affidavit also lists that it is protected by the Privacy Act.

7. I believe that many, if not all, of the documents listed P-1 through P-1960 are or may be protected by the aforesaid Federal Privacy Act of 1974, and accordingly require a Court Order for their disclosure in these proceedings and that certain protections in that order limiting their use to these proceedings would be appropriate.

Dated: February 28, 2005

S/Robert S. Catapano-Friedman
Robert S. Catapano-Friedman
Counsel for Plaintiff
The Catapano-Friedman Law Firm
50 Franklin Street, 4th Floor
Boston, MA 02110
BBO #078980

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Upon Motion duly made by Plaintiff in the captioned proceedings and good cause having been shown by Plaintiff in support of said motion

It is hereby **ORDERED** that:

1. Plaintiff disclose the documents in his possession listed as P-1 through P-1960 to Defendants' Attorney for discovery in these proceedings.
2. Defendants' Attorney shall not disclose the aforesaid documents to anyone at Defendants' other than to the extent necessary for the efficient and effective litigation of these proceedings.
3. Plaintiff's Attorney and Defendants' Attorneys shall use the aforesaid documents listed as P-1 through P-1960 only in connection with these proceedings.

IT IS SO ORDERED

Dated: March _____, 2005

Joseph L. Tauro, U.S.D.J.